IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 78 OF 2006

MR. SHANKAR RAGHUNATH JOG,SANCORDEM,VIA TISKA,GOA. ....Petitioner

Versus

THE STATE OF GOA THROUGH ITS CHIEF SECRETARY AND 12 ORS., ...Respondents

Mr. T. Pereira, Advocate for the Petitioner.
Mr. S.S. Kantak, Ag With Ms. R. Chodankar, Aga For R-1 To 6.
Mr. E.P. Badri Narayanan, Central Govt. Standing Counsel for R.7 and 8.
Mr. M.S. Sonak, Advocate for R.12.

Coram:- KSHITIJ R. VYAS, C.J. &
RANJANA DESAI, J.

Date:- 7th June, 2006

P.C.:

Heard learned counsel appearing for the parties.

2. It is the grievance of the petitioner that the respondent Nos.9 to 13, more particularly respondents No.12 and 13 are carrying out illegal mining, excavation and dumping works and ore transportation activities without any licence or permission and failure by respondent Nos.1 to 8 in not acting to stop the illegal activities of the respondent Nos.9 to 13 therefore has caused environmental and ecological damages in the process. The petitioner has therefore prayed for appropriate directions to the respondent No.1 to immediately stop all and singular illegal activities of mining, earth-excavation, dumping of rejection and/or transportation of ore being indulged by the respondent Nos.9 to 13 or any of them or on their behalf in the said properties under survey Nos.44/1 of village Sancordem and survey Nos.36/1 and 37/1 of village Darbandora, all of Taluka Sanguem and to restore the said lands to their original pristine

condition at the cost and expenses of the Respondents No.9 to 13 in addition to penalty/fines, etc. in accordance with law.

3. During the course of the hearing, learned counsel appearing for the respondents No.12 and 13 who are actually carrying on the mining operation by inviting our attention to the affidavit filed on behalf of respondent No.12 submitted since third week of March, 2006 has stopped the mining activities whatsoever being carried out at the said mines. At page 77 of the said affidavit, it is specifically mentioned that as a matter of abundant caution the respondents No.12 and 13 have discontinued the mining operation and there is no proposal to recommence the same until appropriate clearance is obtained from the competent authority. Page 82 is the forwarding letter and page 83 is the Notice in the Form I (First Schedule) wherein it is specifically mentioned that the respondent No.13 has temporarily discontinued the mining operation in view of the Order No. 5/20/2002 - mines/part II/20 dt. 13.02.06 issued by the Dept. of Mines.

4. In view of this, it is clear that at present the mining operation is discontinued. Therefore the grievance voiced in the petition now does not survive. There is one more reason for us not to entertain this petition at this stage. It is the grievance of the petitioner that even though an inquiry was conducted by respondent No.6, on 23.12.05 by issuing notice to the petitioner as well as respondents No.9 to 12 directing them to attend the hearing before him and even though the petitioner remained present, copies of the reply filed by the respondents were not supplied to him and without giving any hearing to the petitioner as well as to the said respondent, the respondent No.6 concluded the proceedings and submitted his report. The learned counsel for the petitioner has therefore submitted that the request of the petitioner for urgent inspection of the site and to take photographs have not been considered and therefore an inquiry conducted by the respondent No.6 is not proper. The learned Advocate General appearing for the respondents No.1 to 6 states that a fresh inquiry will be held wherein the petitioner's application dated 22.12.05 shall be

considered and the petitioner as well as respondents No.9 to 13 shall also be permitted to present their case and appropriate decisions shall be taken after following the principles of natural justice. In view of this statement we hardly see any reason to continue the present proceedings.

We accordingly dispose of this petition without entering into merits.

KSHITIJ R. VYAS, C.J.

RANJANA DESAI, J.

sl.